

Senate Bill 548

By: Senator Seabaugh of the 28th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

To amend Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state purchasing, so as to prohibit the use of state funds by purchase orders, government contracts, credits cards, charge cards, or debit cards, or other such payment vehicles for personal benefit or gain; to provide for penalties; to amend Article 2 of Chapter 7 of Title 45 of the Official Code of Georgia Annotated, relating to reimbursements for public officers and employees, so as to prohibit state officers and employees from misappropriating advances of public funds, submitting fraudulent reimbursement requests, or approving fraudulent reimbursement requests; to provide for penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state purchasing, is amended by revising Code Section 50-5-80, relating to personal purchases or sales through the department for individual ownership, all department purchases remaining state property, penalty, and applicability, as follows:

"50-5-80.

(a) As used in this Code section, the term 'person' includes natural persons, firms, partnerships, corporations, or associations.

(b) It shall be unlawful for any ~~employee or official of the state or any other person to purchase, directly or indirectly, through the Department of Administrative Services, or through any office, agency, department, board, bureau, commission, institution, authority, or other entity of the state, any article, material, merchandise, ware, commodity, or other thing of value for the personal or individual ownership of himself or herself or other person or persons. All articles, materials, merchandise, wares, commodities, or other things of value purchased, directly or indirectly, by or through the Department of Administrative Services or by or through any office, agency, department, board, bureau, commission,~~

~~institution, authority, or other entity of the state shall be and remain the property of the state until sold or disposed of by the state in accordance with the laws governing the disposition or sale of other state property~~ person to obtain for his or her own personal benefit, or for the benefit of any other person, any goods, services or other things of value, through any resource or method established pursuant to this article, including but not limited to purchase orders, government contracts, credit cards, charge cards, or debit cards.

~~(c)(1) It shall be unlawful for any person knowingly to sell or deliver any article, material, merchandise, ware, commodity, or other thing of value to any person, directly or indirectly, by or through the Department of Administrative Services or by or through any office, agency, department, board, bureau, commission, institution, authority, or other entity of the state for the individual and personal ownership of such person or other person or persons except that property of the state may be sold or otherwise disposed of in accordance with the laws governing the sale or other disposition of state property. Any person who violates subsection (b) of this Code section by obtaining any goods, services, or other things of value in the aggregate value of less than \$500.00 shall be guilty of a misdemeanor of a high and aggravated nature which shall be punishable by up to one year in prison and a fine of up to \$5,000.00. In addition to the foregoing criminal penalties, any such person shall also be subject to immediate termination of state employment and shall owe restitution to the state equal to the amount of such unlawful purchases, plus interest to be assessed at a rate of 12 percent per annum to be calculated from the date each unlawful purchase was made.~~

(2) Any person who violates subsection (b) of this Code section by obtaining any goods, services, or other things of value in the aggregate value of \$500.00 or more shall be guilty of a felony which shall be punishable by at least one year but no more than 20 years in prison and a fine of up to \$50,000.00 or triple the amount of such unlawful purchases, whichever is greater. In addition to the foregoing criminal penalties, any such person shall also be subject to immediate termination of state employment and shall owe restitution equal to the amount of such unlawful purchases, plus interest to be assessed at a rate of 12 percent per annum to be calculated from the date each such unlawful purchase was made. If any person who is convicted of a felony pursuant to this subsection is a participant in any government-funded retirement system, such person's retirement benefits shall be paid to the state until such fines, restitution, and interest have been paid in full.

~~(d)(1) Any person who violates any provision of this Code section shall be guilty of a misdemeanor. Any person who knowingly assists another person in violating subsection (b) of this Code section shall be guilty of a misdemeanor of a high and aggravated nature which shall be punishable by up to one year in prison and a fine of up to \$5,000.00 if the~~

unlawfully purchased goods, services, or other things of value are valued in the aggregate of less than \$500.00. In addition to such criminal penalties, any such person shall also be subject to immediate termination of state employment and shall owe restitution equal to the amount of such unlawful purchases, plus interest to be assessed at a rate of 12 percent per annum to be calculated from the date each unlawful purchase was made.

(2) Any person who knowingly assists another person in violating subsection (b) of this Code section shall be guilty of a felony which shall be punishable by at least one year but no more than 20 years in prison and a fine of up to \$50,000.00 or triple the amount of the unlawful purchases, whichever is greater, if the goods, services, or other things of value are in the aggregate value of \$500.00 or more. In addition to the foregoing criminal penalties, any such person shall also be subject to immediate termination of state employment and shall owe restitution for the amount of such unlawful purchases, plus interest to be assessed at a rate of 12 percent per annum to be calculated from the date each unlawful purchase was made. If any person who is convicted of a felony pursuant to this subsection is a participant in any government-funded retirement system, such person's retirement benefits shall be paid to the state until such fines, restitution, and interest have been paid in full.

(e) This Code section shall not apply to any official employee purchase program for technology resources facilitated by and through the Georgia Technology Authority for state employees and public school employees of county or independent boards of education."

SECTION 2.

Article 2 of Chapter 7 of Title 45, relating to reimbursement expenses for public officers and employees, is amended by revising Code Section 45-7-32 of the Official Code of Georgia Annotated, relating to reimbursement for expenses of lodging and airfare and penalty for violations, as follows:

"45-7-32.

~~Any person who intentionally violates Code Sections 45-7-29 through 45-7-31 shall be guilty of a misdemeanor.~~

(a) It shall be unlawful for any person to use any travel advance received from public funds, for nongovernmental purposes or to submit or approve, knowingly or through willful and wanton neglect, a fraudulent request to the state for reimbursement of expenses.

(b) Any person who in violation of subsection (a) of this Code section uses any travel advance for nongovernmental purposes or submits or approves, knowingly or through willful and wanton neglect, a fraudulent request for reimbursement of expenses, valued in the aggregate at less than \$500.00 shall be guilty of a misdemeanor of a high and aggravated nature which shall be punishable by up to one year in prison and a fine of up

1 to \$5,000.00. In addition to the foregoing criminal penalties, any such person shall also be
2 subject to immediate termination of state employment and shall owe restitution to the state
3 equal to the amount of such misappropriated travel advances or fraudulent reimbursements,
4 plus interest to be assessed at a rate of 12 percent per annum to be calculated from the date
5 each misappropriated travel advance or fraudulent reimbursement payment was made.

6 (c) Any person who in violation of subsection (a) of this Code section uses any travel
7 advance for nongovernmental purposes or submits or approves knowingly, or through
8 willful and wanton neglect, a fraudulent request for reimbursement of expenses valued in
9 the aggregate at \$500.00 or more shall be guilty of a felony which shall be punishable by
10 at least one year but no more than 20 years in prison and a fine of up to \$50,000.00 or triple
11 the amount of such misappropriated travel advances or fraudulent reimbursement
12 payments, whichever is greater. In addition to the foregoing criminal penalties, any such
13 person shall also be subject to immediate termination of state employment and shall owe
14 restitution to the state equal to the amount of such misappropriated travel advances or
15 fraudulent reimbursements, plus interest to be assessed at a rate of 12 percent per annum
16 to be calculated from the date each misappropriated travel advance or fraudulent
17 reimbursement payment was made. If any person who is convicted of a felony pursuant
18 to this subsection is a participant in any government-funded retirement system, such
19 person's retirement benefits shall be paid to the state until such fines, restitution, and
20 interest have been paid in full."

21 **SECTION 3.**

22 All laws and parts of laws in conflict with this Act are repealed.